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Substantive Sub-Areas

Grand Park Law Group · 2026



A. **Excessive Force and Officer-Involved Shootings**

Excessive-force claims arise under the Fourth Amendment for arrest and seizure contexts (*Graham*), the Fourteenth Amendment (substantive due process) for pretrial detainees, and the Eighth Amendment for convicted prisoners. The *Graham* "objective reasonableness" test is the workhorse: courts evaluate the severity of the crime, whether the suspect posed an immediate threat, and whether the suspect was actively resisting or fleeing.

For deadly force, *Tennessee v. Garner*, 471 U.S. at 11, requires probable cause to believe the suspect poses a significant threat of death or serious physical injury. California law (Penal Code § 835a, as amended by AB 392 in 2019) is more protective: deadly force must be "necessary" — a higher bar than the federal "reasonable" standard. The California standard supplies the substantive rule for Bane Act claims premised on excessive deadly force.

Investigative musts: body-worn camera footage (preserve immediately), dispatch audio, in-car video, autopsy report, ballistics, scene photographs, civilian witness canvass, and the agency's use-of-force review file (often discoverable under SB 1421/SB 16).

B. **False Arrest and Malicious Prosecution**

A Fourth Amendment false-arrest claim requires arrest without probable cause. The statute of limitations runs from the end of the false imprisonment (typically arraignment), per *Wallace v. Kato*, 549 U.S. at 388–89.

Malicious prosecution under § 1983 (cognizable in the Ninth Circuit as a Fourth Amendment claim where the prosecution involved a seizure) requires (1) initiation of criminal proceedings, (2) without probable cause, (3) for an improper purpose, and (4) favorable termination. The fabrication-of-evidence variant — established in *Devereaux v. Abbey*, 263 F.3d 1070, 1074–75 (9th Cir. 2001) (en banc) — provides that there is a clearly established due-process right not to be subjected to criminal charges based on false evidence deliberately fabricated by government officials.

Heck-bar analysis is critical: until the underlying conviction is reversed, expunged, or invalidated, a § 1983 claim that necessarily implies its invalidity is barred. *See Heck*, 512 U.S. at 486–87.

C. Conditions of Confinement and In-Custody Deaths

For pretrial detainees, the governing standard for inadequate medical care and unsafe conditions is objective deliberate indifference (post-*Kingsley*); for convicted prisoners, the Eighth Amendment subjective deliberate-indifference test still governs.

The Ninth Circuit's leading articulation of the deliberate-indifference standard for in-custody medical care is *Lemire v. California Department of Corrections & Rehabilitation*, 726 F.3d 1062, 1081–82 (9th Cir. 2013). *Lemire* requires the plaintiff to show (1) a serious medical need, and (2) that the defendant's response was deliberately indifferent — i.e., the official knew of and disregarded an excessive risk of harm. *Lemire* found triable issues where prison staff failed to conduct required welfare checks on a suicidal inmate.

In-custody death cases require coordinated wrongful-death (Cal. Code Civ. Proc. § 377.60) and survival (§ 377.30) pleadings, and almost always include both Eighth/Fourteenth Amendment § 1983 claims and Bane Act claims.

D. First Amendment Retaliation

Retaliation claims by **public employees** are governed by the *Pickering–Garcetti* framework. *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968), balances the employee's interest in commenting on matters of public concern against the employer's interest in efficient workplace operation. *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006), narrowed the doctrine: speech made "pursuant to official duties" is unprotected. The public/private-citizen distinction is now the gateway question, and *Garcetti* has substantially restricted the universe of protected speech.

Retaliation claims by **private citizens** (typically against police for filming or criticizing officers) require: (1) protected activity, (2) adverse action by a state actor that would chill a person of ordinary firmness, and (3) causation — substantial or motivating factor. The Ninth Circuit recognizes a clearly established right to film police in public.

E. Hate-Motivated Violence (Ralph Act) and Public-Accommodation Discrimination (Unruh Act)

The **Ralph Act**, Cal. Civ. Code § 51.7, gives every person the right to be free from violence or intimidation by threat of violence committed against their person or property because of certain protected characteristics (race, religion, sexual orientation, gender, disability, etc.). Civil Code § 52(b) supplies its remedies: actual damages, exemplary damages, a $25,000 civil penalty payable to

the person denied the right, and attorney's fees. Unlike § 52(a), which governs Unruh claims, § 52(b) contains no trebling formula. A Ralph Act penalty action must be commenced within three years.

The **Unruh Civil Rights Act**, Cal. Civ. Code § 51, guarantees full and equal accommodations, advantages, facilities, privileges, and services in all business establishments, regardless of protected characteristic. It applies primarily to private business defendants and provides for actual damages, a statutory minimum of $4,000 per violation, and attorney's fees. While not a "civil rights litigation" claim against police in the classic sense, Unruh Act claims dovetail with disability-discrimination cases (e.g., a business denying access to a service animal) and may be paired with ADA claims for damages.

Practice	Civil Rights
Topics	Excessive Force · First Amendment · Retaliation · Discrimination & Harassment
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